

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-377-C - ORDER NO. 97-235
MARCH 25, 1997

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IN RE: Application of TTE, Inc. for a Certificate of Public Convenience and Necessity to Provide Local Exchange Telecommunications Services Throughout the State of South Carolina.) ORDER APPROVING CERTIFICATE TO PROVIDE LOCAL SERVICE
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This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of TTE, Inc. ("TTE" or "the Company"). The Application requests that the Commission grant a Certificate of Public Convenience and Necessity for the Company to provide local exchange telecommunications services throughout the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated January 13, 1997, the Commission's Executive Director instructed TTE to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. TTE complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition

("SCTC").

A hearing was convened on March 12, 1997, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. TTE was not represented by counsel. The Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. SCTC did not appear at the hearing.

Prior to the hearing, TTE and the SCTC executed a Stipulation dated February 21, 1997. The Stipulation provides the following:

- (1) The SCTC did not oppose the granting of a statewide Certificate of Public Convenience and Necessity to TTE if the Commission made the necessary findings to grant the Certificate and if all stipulated conditions are met;
- (2) TTE agreed that any Certificate granted by the Commission will authorize TTE to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;
- (3) TTE agreed that it did not request the Commission to find whether competition is in the public interest for rural areas;
- (4) TTE agreed that it would not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until TTE provides such rural incumbent LEC and the Commission with written

notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. TTE also acknowledged that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

- (5) TTE agreed that if, after TTE gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then TTE will not provide service to any customer located within the service area in question without prior and further Commission approval;
- (6) TTE acknowledged that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the

conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;

- (7) TTE and the SCTC agreed that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and
- (8) TTE agreed to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and TTE and was filed with the Commission prior to the hearing in this matter. We therefore accept the stipulation.

In support of its Application, TTE presented David O. Johnson to testify. Johnson is the Vice President and Director of Marketing for TTE. The purpose of Johnson's testimony was to (1) present evidence on the technical, managerial, and financial abilities of TTE to provide local exchange telecommunications

services in South Carolina; (2) to describe the services TTE proposes to offer; and (3) to discuss TTE's proposed tariff. Johnson testified that TTE proposes to offer local exchange services by either (1) acquiring local exchange services at a discount from the Incumbent Local Exchange Carrier ("Incumbent LEC") and then selling these services to end-users packaged with other services available through TTE or (2) acquiring the service from the Incumbent LEC and reselling the service to end-users.

DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, TTE's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by TTE should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that TTE possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). To demonstrate TTE's technical qualifications, witness Johnson testified that TTE provides long distance telecommunications services pursuant to Commission authorization. The Application

reveals that TTE was authorized to provide intrastate resold telecommunications service in 1987. Concerning TTE's managerial qualifications, Johnson testified that TTE's management team has considerable experience in the telecommunications industry with a proven record of performance and operational experience. Regarding TTE's financial resources, the record reveals that TTE is a statutory close corporation organized and existing under the laws of the State of South Carolina. Johnson testified that TTE has four shareholders, all of which have investments in other telecommunications ventures which complement the provision of local exchange service. Johnson further stated that the provision of local exchange service is a natural progression of TTE and that the incremental cost of adding local exchange service is not prohibitive. No other party offered any evidence in opposition to Johnson's testimony. Based on the undisputed evidence of the record, the Commission finds that TTE possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that TTE will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Johnson testified that TTE seeks to provide intrastate local exchange services. Johnson specifically stated that TTE will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that TTE fully intends to meet the Commission's service standards. Johnson also testified to the Company's ability to handle customer

service and repair requests. As well, Johnson assured the Commission that TTE would maintain a regulatory contact person as required by Commission regulation. No party offered any evidence to dispute Johnson's testimony. Based on the undisputed testimony from Johnson, the Commission believes, and so finds, that TTE will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that TTE's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). The record shows that TTE believes that availability of affordable local service will increase with TTE's admittance into the local market. Johnson's prefiled testimony reveals that TTE anticipates that approval of its Application will increase competition for basic local exchange services, will provide competitive pricing on local exchange services, and will provide innovation and greater customer awareness of the options available in the telecommunications industry. No party offered any evidence that the provision of local exchange service by TTE would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by TTE will not adversely impact affordable local exchange service.

(4) The Commission finds that TTE will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Johnson testified that TTE fully

intends to comply with the Commission's universal service requirements and will contribute to universal service mechanisms on the state and federal levels as the universal service mechanisms may apply to TTE. No party disputed Johnson's testimony. Based on the undisputed evidence of record, the Commission finds that TTE will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by TTE "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996). Johnson offered that the competition of TTE offering services in South Carolina will benefit customers. Further, McDonald offered that certification of TTE to provide local exchange service will promote competitive pricing on local exchange services, will provide innovation and greater customer awareness of the options available in the telecommunications industry, will optimize the use of existing telecommunications infrastructure, and will provide high quality local service to the end users. Johnson's testimony was undisputed as no party offered any evidence that approval of TTE's Application would adversely impact the public interest. Therefore, the Commission finds that approval of TTE's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by TTE should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of TTE for a Certificate of Public Convenience and Necessity to allow TTE to provide resold and facilities-based intrastate local exchange services in South Carolina is approved. TTE is hereby authorized to provide intrastate resold and facilities-based local exchange service in South Carolina.

2. TTE shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes to the proposed tariff to which TTE agreed with the Commission Staff.

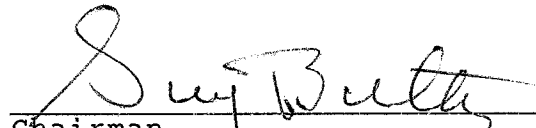
3. TTE shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, TTE shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. TTE shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, TTE shall promptly notify the Commission in writing if the representatives are replaced. TTE is directed to comply with all Commission regulations unless expressly waived by the Commission.

4. TTE shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. The Stipulation filed by TTE and the SCTC is approved by this Commission, is binding upon TTE and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and
maintain with the Commission the name, title, address, and
telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services
Department at 803-737-5230